Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms.	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990.	)	CC Docket No. 90-571
	)	
Administration of the North American Number Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size.	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
REPLY COMMENTS ON STAFF STUDY OF CONTRIBUTION MECHANISMS

May 16, 2003

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Executive Summary

The National Association of State Utility Consumer Advocates ("NASUCA")[1] presents these reply comments in response to comments on the Federal Communications Commission ("Commission") Staff study of alternative methodologies for assessing contributions to the federal universal service support mechanism ("Staff Study").[2] The comments on the Staff Study do not seriously call into question the results of the study, which show that the current revenue-based mechanism is sustainable for the near-term.[3] Based on the Staff Study, and even taking into consideration some parties' criticisms of the study, there is no "death spiral" to be seen for the current mechanism.[4]

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[1] NASUCA is an association of 41 consumer advocates in 40 states and the District of Columbia. NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. See, e.g., Chapter 4911, Ohio Rev. Code.

[2] See Order of the Deputy Chief of the Telecommunications Access Policy Division (DA 03-1009; rel. March 27, 2003). The Order allowed parties to file a combined document that replied to comments filed pursuant to the Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) ("Second Further Notice") and that responded to the Public Notice, FCC 03-31 (rel. February 26, 2003) ("Public Notice") seeking comment on the Staff Study. Given the intermixture of the issues, these reply comments on the Staff Study will unavoidably address issues raised in various of the stakeholders' reply comments filed on April 18, 2003.

[3] These reply comments respond to comments filed by Ad Hoc Telecommunications Users Committee ("Ad Hoc"), Arch Wireless Operating Co. LLC ("Arch"), AT&T, AT&T Wireless Services, Inc. ("AWS"), Cellular Telecommunications & Internet Association ("CTIA"), Community Action Partnership, et al. ("CAP, et al.), Consumers Union, et al. ("CU, et al."), Information Technology Association of America ("ITAA"), League of United Latin American Citizens ("LULAC"), MetroCall Holdings Inc. ("MetroCall"), Montana Independent Telecommunications Systems ("MITS"), the National Grange of the Order of Patrons of Husbandry ("Grange"), National Indian Education Association ("NIEA"), National Rural Telecommunications Association and Organization for the Protection and Advancement of Small Telephone Companies ("NRTA/OPASTCO"), National Telecommunications Cooperative Association ("NTCA"), Nextel Communications, Inc. ("Nextel"), SBC Communications Inc. and BellSouth Corporation ("SBC/BS"), Sprint Corporation ("Sprint"), the State of Texas ("Texas"), Telecommunications Research and Action Center ("TRAC"), Time Warner Telecom Corporation ("Time Warner"), T-Mobile USA, Inc. ("T-Mobile"), TracFone Wireless, Inc. ("TracFone"), United States Telecom Association ("USTA"), Verizon, Verizon Wireless, Virgin Mobile USA, LLC ("VMU"), Voice on the Net, Inc. ("VON"), WebLink Wireless I, LLP ("WebLink"), the West Virginia Consumer Advocate ("WVCAD"), WorldCom, Inc. d/b/a MICI, Inc. ("MCI") and XO Communications, Inc. ("XO").

[4] E.g., Coalition for Sustainable Universal Service ("CoSUS") Comments (April 22, 2002) at 23.

The comments on the Staff Study also support NASUCA's position that, compared to the current mechanism, each of the three alternative methodologies unreasonably burdens residential and small business consumers, and unreasonably allows interexchange carriers to avoid responsibility for contributing to the federal universal service fund ("USF"), contrary to 47 U.S.C.254(d). This remains reason enough to reject each of the three alternatives.

The current mechanism is, in concept, both equitable and non-discriminatory, and has been upheld by the courts. See *Texas Office of Public Utility Counsel v. FCC* ("*TOPUC I*"), 183 F.3d 393, 426-430 (5th Cir. 1999). The comments on the Staff Study show the need to make additional improvements to the current mechanism. There is no need, however, to adopt a radically-different connection-based mechanism that assesses universal service support on carriers and their customers based on access to, not usage of, the interstate network.

I. The revenue-based mechanism is sustainable.

The results of the Staff Study show that there is no current need for radical changes to the USF contribution mechanism. The Staff Study projects essentially the same contribution base in 2007 as in 2002. Under that projection, there is no "death spiral," even given the projected 26% increase in the size of the fund.

In its comments on the Staff Study, AT&T now eschews the term "death spiral," saying instead that "universal service funding is on a dead-end path." AT&T at 2.[5] MCI,

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[5] In its May 5, 2003 comments on eligible telecommunications carriers in 96-45, AT&T reverts to the 'death spiral" routine.

the remaining industry proponent of the CoSUS proposal, has also abandoned the "death spiral" concept. Unless the Commission kills it through unwarranted increases in the USF, the revenue-based mechanism is not in critical condition.

The parties who assert that the current mechanism should be jettisoned point to two factors. The first factor is the growth in universal service funding requirements. All parties appear to recognize that the growth in the fund is the primary cause of the problems with the current mechanism.

Thus the first task at hand for the Commission should be to restrain the growth of the fund. MCI states (at 6) that in the very near term, the current revenue-based system will cease to be sufficient. MCI provides numerous words of doom and gloom, but never specifies **when** in the "near term" the system will cease to be sufficient. As shown in NASUCA's April 15, 2003 comments, if the growth of the fund is restrained and additional sources of assessable revenue are added, the fund is indeed sustainable.

What none of the supporters of alternative mechanisms have explored is the impact of unrestrained growth in the fund on their own proposals for replacing the revenue-based mechanism. In order to assess this impact, NASUCA has rerun the Staff Study, using two "substantial growth" scenarios: First, with the assumption that USF program requirements grow by 50% over the years 2002 though 2007, rather than the 26% projected by Staff. That would increase the fund from $5.849 billion in 2002 to $8.744 billion in 2007. NASUCA also reran the Staff Study under the assumption that the 2007 fund requirement is 50% greater than the Staff-projected fund for 2007 (i.e., $11.052 billion vs. the Staff-projected $7.368 billion). The results -- discussed more fully below -- show that such increases in fund size exacerbate, rather than alleviate, the harm to residential and small business that would result from collecting a USF of this size, under any of the scenarios.

Thus even if the supporters of the various connection-based mechanisms are correct that the Commission will not restrain the growth of the fund, their proposals are no more a solution for unrestrained growth than continuing the current mechanism. This is all the more an argument for the Commission to act to restrain the fund.[6]

The supporters of the various connection-based mechanisms also focus on an alleged decline in the revenue base on which the program requirements are assessed. As shown below, these parties' attacks on the reasonable results of the Staff Study are without foundation.

Neither of these two reasons -- increased fund size or declining revenue base -- supports the radical change encompassed in these parties' varied proposals for a connection-based mechanism. The better course, as consistently argued by NASUCA and many others, would be to combine restraint of the fund with further improvements to the revenue-based mechanism.

A. Fund growth

Commenters' criticisms of the USF fund levels reflected in the Staff Study are minimal or entirely speculative. Indeed, MCI notes AT&T's earlier citation to the Office of Management and Budget's projections of "$400 million growth in the USF by 2005, and $800 million growth by 2008." MCI at 6-7, citing AT&T February 28, 2003 comments at 12. Such projections are, in fact, more conservative than the Staff Study,

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[6] See Comments of the National Association of State Utility Consumer Advocates, CC Docket No. 96-45, FCC 03J-1 (May 5, 2003).

which shows a $467 million growth in the fund from 2003 to 2005 and a $974 million growth from 2003 to 2007. Staff Study at 5.

AT&T asserts that the Staff Study does not "appear to account for the upward pressure on" the rural support mechanisms that allegedly result from first, "the ILEC revenue guarantees built into those mechanisms" and second, "the fact that competitive eligible telecommunications carrier ('CETC') entry simply adds to the amount of support provided by these mechanisms, without reducing ILEC support." AT&T at 4 (footnote omitted). With regard to the first issue, the Staff Study does include the impact of the Multiple Association Group ("MAG") plan,[7] and includes projections of line growth and inflation. Staff Study at 18. AT&T's failure to attempt to quantify the incremental impact of "revenue guarantees" beyond the 26% growth in the fund already included in the Staff Study renders AT&T's view mere speculation.

Also entirely speculative is AT&T's discussion of CETC issues. AT&T is essentially correct in stating that unless "universal service support should be limited to a single connection to a household or single-line business … universal service will *de facto* be defined as a telephone connection to every person and every household, and the USF will mushroom accordingly." AT&T at 5. Yet AT&T acknowledges that this very issue is currently being considered by the Commission. *Id.*, citing the *ETC Referral Order* and the *ETC Notice*.[8] The Commission and the Federal-State Joint Board on Universal

[7] See *Multi-Association Group (MAG) Plan for Regulation of Interstate Service of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order, 16 FCC Rcd 19613 (2001).

[8] Order, 17 FCC Rcd 22642 (2002) ("*ETC Referral Order*"); Public Notice, 18 FCC Rcd 1941 (2003) ("*ETC Notice*"). See NASUCA Comments (May 5, 2003).

Service ("Joint Board") both recognize that CETCs' impact on the high-cost fund is a crucial issue. *ETC Referral Order*, ¶¶ 4, 5; *ETC Notice*, ¶¶ 10, 11.[9]

AT&T also notes other "policy-based" issues that could directly impact the size of the USF: intercarrier compensation issues (AT&T at 6); the Commission's eventual decision on the definition of services to be supported by universal service (*id*.); and lifeline issues. *Id*.[10] Interestingly, AT&T's "technical comments" on the Staff Study (AT&T Exhibit 1 at 2-3) neither identify any other issues nor attempt to quantify the impact of those issues on the revenue-based mechanism.

These few criticisms of the Staff's approach do not invalidate the Staff Study. Rather, the questions raised at best indicate that the Study should be rerun to account for the impact of these issues. Yet to the extent that the issues addressing the size of the fund are within the Commission's control -- as in fact all these issues are -- the lesson from reviewing an updated, more inclusive Staff Study would more appropriately result in increasing the Commission's sensitivity to the impacts of its decisions on the fund, rather than necessitating a move to a connections-based mechanism.

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[9] According to an ILEC source, wireless ETC payments from the USF could add $2 billion a year to the demand for the fund. *Telecom Policy Report* (April 14, 2003) at 4.

[10] NASUCA would note that the $105-$123 million increased cost for the lifeline program projected for 2004 in the Joint Board Recommended Decision (*id*.) represents less than 2% of the total fund size projected for 2004 in the Staff Study. See Staff Study at 5. The Joint Board Recommended Decision shows that this increased cost is the result of adding around a million customers to the lifeline rolls. Joint Board Recommended Decision (rel. April 2, 2003), Appendix F at 2.

B. Unrestrained growth in the USF would have a devastating impact on any contribution mechanism, including the three connection-based proposals analyzed in the Staff Study.

The key point of AT&T's argument against the revenue-based mechanism is that "demand for universal service funds continues to grow unabated while the revenues-based contribution mechanism struggles to meet that demand by squeezing ever-more money out of an ever-declining contribution base." AT&T at 4. As seen in NASUCA's previous comments, the Staff Study-projected growth in the Universal Service Fund results in manageable increases to the contribution factor.[11] Further, as will be seen in the next section, an "ever-declining" contribution base is hardly inevitable.

The Staff Study shows that under the current mechanism and the three proposals, the 2004-2007 increase in the residential household contribution is as follows:

Current	Proposal 1	Proposal 2	Proposal 3
7.7%	7.8%	9.8%	6.3%

The growth in the contribution factor is between 2.1% and 3.3% per year under any of the scenarios. The current mechanism falls in the middle of that range. This is not a "death spiral," and would be even less "deadly" if measures to restrain the growth in the fund and to expand the contribution base were adopted.

AT&T and the others who seek radical change all project a "dead end" for the revenue-based mechanism based on their anticipation of "unabated" growth in the USF. But the crucial question that must be answered is whether any of the proposed substitutes for the current mechanism will be better able to deal with such growth than the revenue-

[11] The Staff Study shows the fund growing 26% from 2002 to 2007 -- producing an increase in the contribution factor from 0.080 in 2002 to 0.114 in 2007. This increase in the contribution factor of 0.0068 per year for five years appears manageable.

based mechanism.[12] If they are not, that presents another reason to reject any or all of the connection-based proposals.

To test the viability of the current mechanism and the three connection-based mechanisms under the assault of massive growth in the fund, NASUCA has rerun the Staff Study assuming that the USF grows 50% over the years 2002-2007, from $5.849 billion in 2002 to $8.774 billion in 2007, rather than the $7.368 billion projected in the Staff Study resulting from 26% growth. NASUCA also reran the Study under the assumption that the fund is 50% greater in 2007 than the Staff Study projected, at $11.052 billion rather than the Staff's $7.368 billion.

The results for the current mechanism and each of the three proposals are shown in the following tables:

[12] The current mechanism bases carriers' contributions on their interstate revenues. Proposal 1 in the Staff Study would impose a flat charge for each end-user connection depending on the nature or capacity of the connection; there would also be a minimum contribution obligation on all interstate telecommunications carriers. Staff Study at 19. Proposal 2 would assess connections based on capacity; there would also be an assessment on revenues for non-presubscribed services. *Id*. at 20. Proposal 3 would base contributions on assigned telephone numbers; there would be the same minimum contribution as found in Proposal 1. *Id*.

Table 1

Assuming 50% increase in 2002 fund by 2007

	Current and Projected Assessments Under Revenue-Based Methodology		Proposal 1 Connections-Based	Proposal 2 Connections-Based	Proposal 3 Numbers-Based
	2002	2007	2007	2007	2007
USF program requirements ($ millions)	$5,849	$8,774	$8,774	$8,774	$8,774
Projected revenue-based contribution factor	0.080	0.137	(a)	(a)	(a)
Average monthly pass-through charge per household	$ 2.14	$2.83	$2.35	$4.54	$3.19
Assessment on multi-line business (b)	1) $11.20 2) $11.20	1) $19.14 2) $19.14	1) $75.13 2) $60.10	1) $34.51 2) $27.61	1) $1.22 2) $122.09
% of fund supported by residential customers	39%	42%	35%	68%	45%
% of fund supported by business customers	61%	58%	65%	32%	55%

(a) Under these proposals, as modeled in the Staff Study, a revenue-based factor is used in the Staff Study only for carriers that lack connections or numbers.

(b) For current mechanism and Proposals 1 and 2: (1) 20 exchange service trunks provided via a T1; (2) T1 configured as 20 presubscribed exchange service trunks; for Proposal 3: (1) single main number supporting 100 extensions; (2) T1 configured as 100 direct inward dial phones

Table 2 **Assuming 2007 fund 50% greater than projected by Staff Study**					
	Current and Projected Assessments Under Revenue-Based Methodology		**Proposal 1 Connections-Based**	**Proposal 2 Connections-Based**	**Proposal 3 Numbers-Based**
	2002	**2007**	**2007**	**2007**	**2007**
USF program requirements ($ millions)	$5,849	$11,052	$11,052	$11,052	$11,052
Projected revenue-based contribution factor	0.080	0.176	(a)	(a)	(a)
Average monthly pass-through charge per household	$2.14	$3.57	$2.35	$5.72	$4.03
Assessment on multi-line business (b)	1) $11.20 2) $11.20	1) $24.56 2) $24.56	1) $109.50 2) $87.60	1) $43.51 2) $34.80	1) $1.54 2) $153.99
% of fund supported by residential customers	39%	42%	28%	68%	45%
% of fund supported by business customers	61%	58%	72%	32%	55%

(a) Under these proposals, as modeled in the Staff Study, a revenue-based factor is used in the Staff Study for carriers that lack connections or numbers.
(b) For current mechanism and Proposals 1 and 2: (1) 20 exchange service trunks provided via a T1; (2) T1 configured as 20 presubscribed exchange service trunks; for Proposal 3: (1) single main number supporting 100 extensions; (2) T1 configured as 100 direct inward dial phones

This shows clearly that the impact of such large increases in the fund will be devastating on both residential and business consumers under Proposals 2 and 3.

Proposal 1 presents different issues. The Staff Study initializes the 2004 per-connection rate at $1.00. Staff Study at 6. Unlike the projections for the current mechanism and Proposals 2 and 3 -- which are based on comparing fund size to revenue base or connection base (see Staff Study at 18-19, 20) -- Proposal 1 develops a “growth factor in order to reset rates for residential, mobile, single-line business, paging, and payphone connections for 2005." *Id*. at 20. It is not clear why this was done. The results, however, are clear: The assessments for these lines grow by 5.1% over the years 2004-2007 (*id*. at 6), despite the 26% growth in the fund. *Id*.[13]

It must be recalled that Proposal 1 treats multi-line business contributions as a residual, after the five categories for which the growth factor is calculated are assessed. *Id*. at 20. The residual pricing in Proposal 1 is adamantly opposed by Ad Hoc (at 9-10), and the results of these high-growth scenarios demonstrate why. As seen in both Table 1 and Table 2, the assessments for multi-line business skyrocket, as does the share of the fund picked up by multi-line business. Although residential customers are insulated from substantial impact in this proposal, the shift to multi-line business makes the connection-based proposals unreasonable in these high-growth scenarios.

C. Shrinking contribution base

Most of the industry's assertions that the contribution base will shrink -- thus exacerbating the impact of the growth of the fund -- are based on repetition of earlier speculations that have never been quantified. See, e.g., AT&T at 7. The self-interested proponents of radical change also claim that the Staff Study's model for the contribution base overstates the size of the base; these attacks are also speculative.

The bundling of interstate and intrastate service -- which complicates allocating interstate and intrastate revenues -- is one such issue. See, e.g., Ad Hoc at 9; AT&T at 9;

[13] If the residential per line assessment under Proposal 1 paid the same proportion of the fund in 2007 as it is projected to provide in 2004, with an $8.774 billion fund the average assessment per household would be approximately $2.79 ($1.24 per line times 2.2 lines per household; see Staff Study at 9), or 2.8 times the assessment four years earlier. Such an increase obviously would be unacceptable.

AT&T Ex. 1 at 5. Confirming NASUCA's April 15, 2003 initial comments on the Staff Study, however, no party attempted to quantify or rework the Staff Study to reflect a decline in revenues from bundled service.

NASUCA's February 28, 2003 comments offered two solutions to this problem: either a time-tested allocator like the 25% used for allocating the cost of the local loop, or, indeed, a 100% interstate allocation -- for universal service purposes -- of the revenues from inter/intrastate bundles. CU, et al.'s excellent discussion of the impossibility exception provides specific justification for a 100% allocation. CU at 11-16.[14] This could also work on a carrier-specific basis: If a carrier claimed that it could not determine the percentage of interstate revenue in a bundle, the burden would be on that carrier to demonstrate why 100% of the revenues should not be treated as interstate.

AT&T asserts that the Staff Study overstates IXC revenues, because it does not decrease those rates enough over the period of the study. AT&T at 8-9. The Staff Study does not decrease residential toll prices after 2003, and decreases business toll prices only 3% per year after 2005. *Id*. at 8. AT&T states that

> if the rate of price decreases in residential and business switched toll markets for January 2003 are assumed to continue through the end of 2007, the revenue-based contribution factor would be 9.8 percent in 2004 (a 20-basis-point increase over the results published in the Staff Study), and 12.2 percent in 2007 (an 80-basis-point increase over the results published in the Staff Study), assuming no other variances from the FCC's default assumptions.

Id. at 8-9. There are a number of serious errors in AT&T's projections.

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[14] The Fifth Circuit did not address the issue of bundled services or the impossibility doctrine in determining that the Commission lacked authority to assess intrastate revenues. *TOPUC I*, 183 F.3d at 446-448.

First, there is the unreasonableness of AT&T's assumptions. This is best displayed in the following table:

Table 3
Decreases in interstate switched revenue per minute

	Jan. 2001	Jan. 2002	Jan. 2003	Jan. 2004	Jan. 2005	Jan. 2006	Jan. 2007	Total decrease
Staff Study resident-ial	-10%	-7.5%	-5%	0	0	0	0	-5%
AT&T resident-ial			-5%[15]	-5%	-5%	-5%	-5%	-25%
Staff Study business	-25%	-20%	-15%	-6%	-3%	-3%	-3%	-40%
AT&T business			-15%	-15%	-15%	-15%	-15%	-75%

AT&T's argument depends on the current trend of declining rates of decreases -- declining 2.5% per year for residential customers and 5% per year for business -- to stop, and for decreases to continue at the same rate through 2007. This is unrealistic. Further, in order to be valid, AT&T's argument depends on toll rates being currently -- and for the next few years -- substantially above their cost, such they can be reduced as AT&T posits. This is hardly the result expected in the long-time competitive toll market. Second, AT&T's analysis "assum[es] no other variances from the FCC's default assumptions." This obviously includes no variance in the number of toll minutes contained in the Study.

[15] AT&T asserts that according to the Staff Study, toll prices will average only a 2.5% annual decline in 2003. AT&T at 8. As AT&T's own chart (Exhibit 1 at 3) illustrates, residential toll prices declined by 5% in 2003. What also happened in 2003 was that the rate of decrease in toll rates declined by 2.5%, going from 7.5% in 2002 to 5%.

In the Staff Study, interstate switched toll revenues per minute decreases and minutes of use are as follows:

Table 4
Interstate switched toll revenues per minute decreases and minutes of use

	January 2003[16]	January 2004	January 2005	January 2006	January 2007
Staff Study residential decreases	-5%	0	0	0	0
Staff Study MoU	48.6	44.2	40.2	36.5	33.2
AT&T residential decreases	-5%	-5%	-5%	-5%	-5%

It cannot be doubted that if toll rates declined as fast as AT&T assumes, minutes of use would *not* decline as fast as Staff assumes. The failure to reflect a slower decline in MoU skews the results in AT&T's favor.

As to wireless revenues, AT&T challenges Staff's projections of the amount of wireless revenues that will be allocated to the interstate jurisdiction. The Staff Study finds that wireless carriers "will allocate 22.3 to 22.4 percent of their total telecommunications revenues to the 'interstate' category." AT&T at 10. AT&T states that a "more reasonable estimate over time is likely 20 per cent." AT&T Ex. 1 at 6; see also AT&T at 10. AT&T provides not one shred of support for its "expectation." *Id.*[17]

[16] Decrease from January 2002.

[17] Interestingly, Table 16 of *TIR 2001* shows that in the fourth quarter of 2002 -- the last quarter under the 15% wireless safe harbor -- the wireless contribution base was 4.455 billion out of 19.143 billion, or 23.3%. Jim Lande and Kenneth Lynch, *Telecommunications Industry Revenues 2001*, Industry Analysis and Technology Division Wireline Competition Bureau (March 2003) ("*TIR 2001*").

Finally, AT&T says that if the Commission excludes DSL revenues from the contribution base, the contribution factor will be 10.4% in 2004 (rather than the Staff Study's 9.6%) and will be 12.7% in 2007 (rather than the 11.4% in the Staff Study). AT&T at 11. That is, in fact, one of the key reasons why the Commission should continue to assess DSL revenues. On the other hand, AT&T alleges that adding cable modem revenues will only "temporarily" increase the contribution base, but gives no explanation. *Id*.[18] The Staff Study reasonably assumes that broadband revenues in the assessment base -- including cable modem and VoIP -- will continue to grow. Staff Study at 16. Broadband is at the beginning of its growth cycle, and there should be nothing temporary about the contribution of broadband to the USF assessment base. See Nextel at 6, n. 10.

MCI points to a decline in one element of the contribution base -- IXC revenues -- as evidence of a decline in overall interstate revenues. MCI at 7-8.[19] Sprint focuses on another single element -- prepaid card revenues -- that has had a decline of more than 90 percent in three years (Sprint at 18), but fails to mention that at their height in 1999, total (inter- and intrastate) prepaid card revenue represented only 1.2% of the entire contribution base.[20]

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[18] AT&T overlooks voice over Internet protocol ("VoIP") as a source of contribution. VoIP can be provided over either DSL or cable modem.

[19] MCI notes that it is too early to judge fund volatility. MCI at 12, n. 39. Yet MCI has no qualms about judging -- after a single quarter's experience -- the long-run impact on the contribution mechanism of the measures adopted in December 2002.

[20] Total 2002 prepaid card revenues represent less than 1/10 of one percent of the contribution base.

MCI points to the impact on the contribution base of the move from historical to projected revenues. MCI at 12. For the services MCI considers (*id*.), there was a decline of $38 million from the fourth quarter of 2002 to the first quarter of 2003.[21] Yet this is a decline of only *two-tenths of one per cent* in the total contribution base.[22] Equally importantly, as the Staff Study shows, MCI's fears of a downward trend in the contribution base are baseless. That is true even without additional improvements to the revenue-based mechanism.

MCI claims that, in asserting that there has been no significant downward trend in the contribution base, NASUCA "masks" the decline from 2001 to 2002. MCI at 8. Yet a one-point "trend" such as that identified by MCI can hardly be used as a rational basis for a radical change in the USF contribution mechanism.

In the interest of a complete record, the following table supplements the tables in NASUCA's February 2003 comments. It should be noted that, even looked at in the short term, there is no trend in the 3Q02 to 2Q03 year.

[21] This result is from IXCs and BOCs reporting $389 million less revenues; wireless $55 million more and resellers, CAPs and CLECs $296 million more. *Id*.

[22] The $38 million difference is swallowed by the $162 million difference noted by MCI resulting from exclusion of *de minimis* contributors from the contribution base. *Id.*

Table 5
USF contribution base

	Contribution base (in $ billions)	
2007		76.8
2006		78.9
2005		80.1
2004		80.2
2003		80.1
2nd quarter 2003	17.03	
1st quarter 2003	17.23	
TOTAL 2002		73.3[23]
4th quarter 2002	16.98	
3rd quarter 2002	17.16	
2nd quarter 2002	19.03	
1st quarter 2002	20.25	
TOTAL 2001		79.9
4th quarter 2001	19.40	
3rd quarter 2001	19.94	
2nd quarter 2001	20.30	
1st quarter 2001	20.26	
TOTAL 2000		79.5
4th quarter 2000	20.96	
3rd quarter 2000	20.20	
2nd quarter 2000	19.38	
1st quarter 2000	18.96	
TOTAL 1999		74.6
4th quarter 1999	18.91	
3rd quarter 1999	18.99	
2nd quarter1999	18.31	
1st quarter 1999	18.35	
Sources 1999 - 2Q03: Contribution Factor Public Notices 2003-2007: Staff Study		

[23] The Staff Study shows a 2002 contribution base of $76.4 billion. The Staff Study "backed-into" its contribution base numbers by multiplying estimated connections times estimated revenue per line. Staff Study at 10. This may make comparison of the Staff Study to actual 2002 results difficult, but keeps the Staff Study internally consistent.

MCI's desperation to find trends supporting its position is exemplified by its argument (at 11-12) that projected billed revenues for the second quarter of 2003 were lower than billed revenues for the fourth quarter of 2002, and that the second quarter 2003 collected projected revenues were even lower. The table below reproduces and expands MCI's selective review of Table 18 of *TIR 2001*.

Table 6

Billed revenues (billions)		Projected revenues 1Q03 (billions)		Projected revenues 2Q03 (billions)	
3Q02	4Q02	Billed	Collected	Billed	Collected
18.796	19.620	19.531	18.798	19.603	18.905

Billed revenues for the second quarter of 2003 were, in fact, only $17 million less than billed revenues for the fourth quarter of 2002, a difference of *less than 1/10 of one percent*. This is hardly a basis for adopting the CoSUS proposal or any other connections-based mechanism.

In earlier comments, AT&T presented a chart that showed contribution factors ranging from 8.7% to 15.8% within three years of a contribution factor of 9.3%, based on various changes in the contribution base and the fund requirements. AT&T Comments (February 28, 2003) at 20. WorldCom previously cited to a study presented by CoSUS based on a model submitted by Verizon, which raised the specter of a 13% contribution factor by 2006. WorldCom Comments (February 28, 2003) at 6, n.9. By contrast, the Staff Study begins in 2003 with a 9.3% contribution factor, and produces contribution factors of 10.6% for 2006 and 11.4% for 2007. As previously discussed, this is hardly catastrophic, and can certainly be reduced. Neither AT&T nor MCI present any studies that call the Staff Study into question.

II. Additional Staff Study issues

TracFone criticizes the Staff Study for failing to break out the effect of the proposals on low usage customers. TracFone at 25. Indeed, as NASUCA pointed out, all of the connection-based proposals (which includes the AT&T numbers-based proposal) make consumers' assessments dependent on their access to, rather than usage of, the interstate telephone network. As a result, all of these access-based proposals transfer USF contribution responsibility fro high-usage customers to low-usage customers. NASUCA Comments (April 18, 2003) at 10-11. WVCAD provides a helpful model for assessing the impact on various subsets of the residential class. WVCAD at 7-9.

On a different note, VMU states

> the Study overstates the growth in wireless subscribership, underestimates the number of multiple handset households, and underestimates the increase in prepaid wireless services. Consequently, the Study understates the increase in the USF contribution to be paid by residential customers under the various connection-based proposals.

VMU at 3. Although NASUCA agrees with VMU's ultimate conclusion, it is clear that the Staff Study *does not* "assume[] a relatively flat growth rate … in the number of wireless subscribers." VMU at 4. Rather, the Staff Study shows a continuing decline in the growth rate:

Table 7

Growth rates for wireless subscribers				
2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
10%	9%	8%	6%	4%
Source: Staff Study at 9				

VMU does accurately note that Staff's underestimation of the proportion of prepaid wireless to the rest of the wireless marketplace leads to overestimation of total wireless revenues. VMU at 5-6. More importantly, it understates the impact on prepaid wireless customers of the move to a connection-based mechanism. *Id*. at 6. VMU also notes that Staff's estimates of the per-household impact of moving to a connection-based mechanism are also understated, because of an underestimation of the number of wireless handsets per household. *Id*. at 6-8.

Verizon Wireless, on the other hand, "is skeptical of" the Staff Study growth projections for wireless, because the "Staff Study assumes, conservatively, that mobile wireless lines will grow by 11 percent this year and then decline, reaching 192 million units in early 2008." Verizon Wireless at 3, n. 9. Verizon Wireless has misunderstood the Staff's assumption, which is that the *rate of growth* in mobile wireless lines will decline "as the market approaches saturation." Staff Study at 14. As Table 5 indicates, the Staff Study reflects a continuing growth in wireless lines, from 132.2 million in 2002 to 189.4 million in 2007. Staff Study at 9.

These criticisms of the Staff Study do not rebut the Study's essential findings.

III. Other problems with the current mechanism can be solved.

As discussed by NASUCA and many other commenters, many of the complaints about the current mechanism can be addressed without the radical changes proposed by the proponents of connection-based mechanisms. For example, AT&T complains about the wireless safe harbor. AT&T at 12-15. The solution to AT&T's complaints is to require wireless carriers to report their actual interstate revenues, which clearly can be done. See AWS at 5-6.

The proper treatment of bundled services (see AT&T at 15-18) was discussed above in Section I.C. The other criticisms of the current mechanism can also be dealt with.

Notably, despite their consensus on the alleged sorry state of the current mechanism, AT&T and MCI disagree on the correct substitute. MCI supports the original CoSUS proposal -- not modeled by the Staff -- and AT&T supports its own proposed numbers-based mechanism.[24]

IV. The results of changes to the Staff Study also show that there is no need for a connection-based mechanism.

Despite the time allotted, few stakeholders accepted the Commission's invitation to test the Staff Study by varying its assumptions.[25] NASUCA, Ad Hoc, AT&T, MCI and Sprint all did so, between them changing a wide variety of the assumptions. Although there was some criticism of the Study's assumptions, none of the commenters other than these five put forth the effort to carry those criticisms into the Staff Study algorithms.

NASUCA's initial work with the Staff Study showed that:

- If 25% of total wireless revenues were treated as interstate rather than the Staff Study 22.2%, the 2007 revenue-based contribution factor would be 0.110, compared to the Staff-projected factor of 0.114. If it is assumed that 30% of wireless revenues were interstate, the 2007 contribution factor

[24] AT&T asserts that the "chorus of 'Don't Worry, Be Happy' is strong from those commenters who derive a competitive advantage under the status quo…." AT&T at 3. None of the commenters who oppose the unnecessary abandonment of the revenue-based mechanism -- including NASUCA -- appear to be content with the current situation, and suggest substantial changes to the revenue-based mechanism. In addition, AT&T overlooks the massive competitive advantage AT&T receives under the AT&T-proposed numbers-based mechanism.

[25] The results of the Staff Study are summarized in the Appendix.

drops to 0.103. These changes reasonably reflect increasing interstate usage by wireless customers.

- If the 2007 contribution base remains at the projected average revenue level for 2003-2005, due to Commission action or other reasons, the 2007 contribution factor will remain at 0.108, noticeably less than the Staff-projected 0.114 for that year.
- If the Commission restrains USF program requirements so they grow by only 20% (to $7.019 billion) rather than the 26% projected by Staff, the 2007 contribution factor will be 0.108.

NASUCA also calculated the combined impact of 1) maintaining the revenue base at 2003-2005 levels and 2) limiting the growth in the fund itself to 20%. If those two actions are taken simultaneously, the resultant 2007 contribution factor would be 0.103.

Further, if projected cable modem and VoIP revenues are included in the contribution base, this action yields a 2007 contribution factor of 0.097. Including cable modem and VoIP revenues, assuming that 25% of total wireless revenues are interstate **and** restraining the growth in the USF to 20% yields a contribution factor of 0.090.

These various approaches, taken singly or -- preferably -- in combination, show that the contribution factor under the revenue-based mechanism can be restrained. None of the commenters' information calls the Staff Study sufficiently into question to justify the massive changes required by any of the three proposals.

Equally importantly, as recognized by T-Mobile, the Staff Study does not include any consideration of the costs to the carriers of implementing any of the proposed mechanisms. T-Mobile at 9-11. Given the carriers' complaints about the effort required, and the cost, of minor changes to the current mechanism,[26] the costs of these fundamental structural changes cannot be ignored.

V. There were few comments challenging the Staff Study's treatment of the proposals

AT&T challenges the Staff Study's assumption that in 2007 15% of switched business lines will be served by VoIP without the use of telephone numbers. AT&T at 24. AT&T's challenge arises from the fact that to the extent that switched business lines operate without telephone numbers, the value of AT&T's and the other numbers-based proposals is lessened compared to the revenue-based mechanism.

AT&T states: "VoIP offerings *in the market today* … show that VoIP users still want to have a telephone number that will allow them to be reached from the public switched telephone network ("PSTN"). *Id*. (emphasis added). It is hardly a stretch to conclude, as did Staff, that about one in seven business VoIP access lines -- those used primarily for outbound calls -- might not need a telephone number enough to justify paying the numbers-based assessment for universal service.

Ad Hoc points out the complexity of modeling potential price levels resulting from the connections-based methods (Ad Hoc at 15-19), including the numbers-based mechanism that Ad Hoc now supports. Ad Hoc states:

> Prior to making a policy decision based upon the outcome of the Staff's modeling, the Commission must evaluate how likely it is that the *actual* assessment rates that would flow from its plan would mirror the Staff's modeling, and to do that it is necessary to evaluate how sensitive the

[26] See CC Docket 96-45 *et al*., SBC Petition for Reconsideration (January 29, 2003) at 6; *id*., Verizon Comments on Petitions for Reconsideration (February 27, 2003) at 4.

> methods are to variations in estimated connection count and fund size estimates.

Id. at 17 (emphasis in original). NASUCA agrees; a comprehensive sensitivity analysis of the Staff Study must be undertaken before the Commission can make any movement away from the current mechanism to any of the connection-based mechanisms.

VI. The results of the Staff Study show that each of the three alternative methodologies unreasonably burdens residential and small business consumers.

AT&T attempts to show that consumers will be better off under its proposal than under the revenue-based mechanism. See AT&T at 27-29. AT&T compares its projection for 2004 of a landline customer's assessment of $0.98 under the numbers-based mechanism to what AT&T asserts would be the 2004 assessment under the revenue-based mechanism, $1.32. AT&T at 27. Here again, a presentation of all of the data shows the error in AT&T's argument.

Table 8

	Numbers-based 2004	Revenue-based 2004	Numbers-based 2007	Revenue-based 2007
IXC contribution	0.00[27]	0.76	0.00[28]	0.64
LEC contribution	0.99	0.56	1.02	0.66
AT&T household contribution	0.99[29]	1.32	1.02	1.30
"AT&T household contribution" + other IXC contributions in Proposal 3, per Staff Study	1.14		1.16	
CMRS contribution	0.99	0.74	1.02	0.79
Total contribution per household	2.52	2.21	2.68	2.38
Note: As in the Staff Study, the "total contribution per household" is greater than the sum of the average IXC, LEC and CMRS contribution.				

As the table clearly shows, AT&T's assertion of superiority for the numbers-based plan is based on two false assumptions: 1) that the household bears none of the burden of assessments on non-presubscribed carriers (the "IXC contribution" in the table); and 2) more importantly, that the household has no wireless service.[30] Indeed, as TracFone states, the Staff Study may understate the number of households with wireless service (TracFone at 29), making AT&T's second assumption even more dangerous.

[27] This is based on AT&T's assumption that the household uses only its presubscribed carrier. This limiting assumption has no basis in fact for the *average* household studied by Staff.

[28] See footnote 27.

[29] AT&T asserts that without the minimum contribution, the per-household burden would be $0.98. AT&T at 27. This one penny difference with the Staff Study shows the minimal impact of the minimum contribution.

[30] According to CTIA's website, there were 145,550,506 US wireless subscribers as of May 13, 2003. See http://www.wow-com.com/. This shows the error in AT&T's assumption.

AT&T also notes that the assessment for a single-line household with average usage will be even higher if the fund increases faster than Staff anticipated or interstate revenues fall. AT&T at 27-28. What AT&T overlooks is the impact of increased fund demands on its own numbers-based mechanism, as discussed above.

CTIA argues that the connection-based proposals do not "address the very real problem of 'zero use' customers, such as the CMRS 'glove box' customers who subscribe to wireless service for safety and security, but typically have no actual usage in any one month." CTIA at 4. Equally, the supporters of the connection-based proposals do not address the problem of the many wireline customers who seldom make any interstate calls.

AT&T and Sprint attempt to minimize the impact of the change to a numbers-based mechanism on such customers. AT&T at 28; Sprint at 14. Neither AT&T nor Sprint attempts to explain why customers who use no interstate services should contribute to the interstate universal service support mechanism -- beyond the support they are required to provide as a result of the Commission's treatment of the subscriber line charge as interstate revenues.

Ad Hoc, AT&T and Sprint also attempt to minimize the impact of the change by touting their proposal to exempt lifeline customers from the numbers-based mechanism, and claim that this makes the numbers-based mechanism superior to a revenue-based assessment. Ad Hoc at 5; AT&T at 31; Sprint at 14. The real comparison would be to a revenue-based mechanism where lifeline customers are exempt from contribution. The supposed advantage of the numbers-based mechanism disappears in that scenario.

VII. The results of the Staff Study show that each of the three alternative methodologies allows interexchange carriers to avoid responsibility for contributing to the federal USF, contrary to 47 U.S.C. 254(d).

Sprint projects that its "pure" numbers-based mechanism will result in IXCs contributing a mere 5% to the USF. Sprint at Attachment II. Clearly, the proposed connection-based mechanisms allow IXCs, which remain major carriers of interstate traffic, to evade almost all responsibility to contribute to universal service, contrary to § 254(d). This is neither equitable nor non-discriminatory.

The IXC share of contributions in 2002 under the revenue-based mechanism was 59%. Staff projects that under the current revenue-based system, the IXC share will fall to 41% by 2007.[31] Proposal 2 reduces the IXC 2007 share to 29% and Proposal 1 reduces the IXC share to 22%. Proposal 3 -- the numbers-based proposal submitted by AT&T -- reduces the IXC share to a mere 13%. These share declines occur even with the minimum contribution levels built into each proposal studied by the Staff. The IXCs have not shown how such massive changes can be justified.

The Act directs that all interstate carriers shall contribute to the USF and requires that such contributions be "equitable and nondiscriminatory." 47 U.S.C. 254(d). As Time Warner states, "this language is most naturally and logically read to mean that carrier contributions bear some reasonable relationship to the volume of interstate services provided by a carrier." Time Warner at 7. Revenues clearly bear a reasonable relationship to the volume of services provided. Further, to the extent that any of the proposals allow

[31] Under the Staff study, all interstate toll is carried by IXCs, and all local traffic is carried by LECs. Although there is some entry into the others' markets, it remains true that LECs still do the majority of their business in local service and IXCs still do the majority of their business in toll.

carriers to avoid that responsibility, the law is violated.

TracFone states:

> The Staff Study confirms what has long been apparent to TracFone and others: the connection-based alternatives would simply transfer responsibility for funding the Federal universal service programs from the largest interexchange carriers and their large and deep-pocketed corporate users to residential ratepayers, including lower income residential consumers, and to those carriers who focus on serving those lower income users.

TracFone at 27.

On a related note, Time Warner briefly and correctly refutes (at 5) the notion that an entire class of carriers can be determined to be *de minimis*, even though they carry most of the interstate traffic. See also Verizon at 9-10.

In the face of these dramatic shifts in funding responsibility, AT&T and MCI both assert that "segment burden" a/k/a "sector equity" is irrelevant. AT&T at 53-54; MCI at 18-19. AT&T asserts that "[t]he very concept of 'segment burden' is ambiguous at best, especially in light of the evolving nature of the industry as the historical regulatory boundaries are abrogated." AT&T at 53; see also MCI at 19.

On the revenue side, the Staff Study treats all switched toll revenues as earned by IXCs, all local revenues as earned by IXCs and all wireless revenues as earned by CMRS carriers. Staff Study at 21. For the connection-based proposals, however, the Staff Study assumes that "residential and single line business connections and local telephone numbers will be provided by LECs, wireless connections and telephone numbers by CMRS providers, and subscriber toll free numbers by IXCs." *Id*. The Staff Study also assumes that 90% of interstate special access connections and all interstate private lines will be provided by IXCs. *Id*.

Thus the 13% of the fund contributed by the IXCs under the Staff Study for the numbers-based mechanism (and the 5% of the fund contributed by IXCs under Sprint's "pure numbers" approach) results from assessing IXCs only on toll-free numbers, interstate special access and interstate private line. All of the rest of the interstate traffic carried by IXCs is excluded from assessment *unless that IXC also happens to provide "local" connections*. An idea of the scale of the difference can be gained from the fact that AT&T's 2002 Annual Report to Shareholders reports that worldwide AT&T serves 4 million business customers and 50 million customers in its "Consumer" category, but serves only 2.7 million local residential customers.[32] Thus despite the clear predominance of the long distance segment of AT&T's business, AT&T's contribution responsibility will be limited to those local customers (and special access and private line).

NASUCA submits that this "segment burden" is highly relevant to analyzing the impacts of the move to the CoSUS proposal (as supported by MCI) or the numbers-based proposal supported by AT&T. This issue, along with the increased burden that the connection-based proposals place on residential customers, are the two key reasons to reject all of the connection-based proposals.

CONCLUSION

Remaining a connection-based supporter even though no longer a member of CoSUS, Ad Hoc states (at 9) that "[r]evenue-based support for the USF must be replaced with a sustainable, economically sound and legally defensible assessment methodology." Ad Hoc and the other proponents of the connection-based mechanism fail to understand

[32] Available at http://www.att.com/ar-2002/html/index.html.

that the revenue-based mechanism has all three of these characteristics, or that their numerous proposals are neither more sustainable, more economically sound nor legally defensible than the revenue-based mechanism.

The revenue-based mechanism -- with further improvements -- is supported by a broad range of commenters, including all industry segments except IXCs. NASUCA, Arch, AT&T-W, CAP, et al., CTIA, CU, et al., Grange, ITAA, LULAC, MetroCall, MITS, Nextel,[33] NIEA, NTCA,[34] Time Warner (as interim), TRAC, TracFone, Verizon,[35] Verizon Wireless, VMU, WebLink and XO all support the revenue-based mechanism.

By contrast, the support for the connection-based mechanism is fragmented among the various proposals and variations of those proposals. And the supporters of each proposal or variant typically fervently oppose the other proposals, along with those who oppose all the connection-based mechanisms. The parties' positions are best seen in the following chart, updated to reflect the latest round of comments.[36]

[33] NASUCA opposes Nextel's proposal (at 11-16) to base USF assessments on the elasticity of demand for the services being assessed. See USTA at 10. As Nextel's charts show (Nextel at 15-16), the main impact of such a change would be to excuse wireless carriers like Nextel -- and IXCs -- from contributing to the USF. Nextel's argument (at 17) that only an elasticity-based mechanism is legal disregards the *TOPUC I* court's approval of the non-elasticity-based revenue mechanism.

[34] NTCA summarizes (at 8-11) the economic reasons for retaining the revenue-based mechanism.

[35] Despite generally supporting expansion of the contribution base to include the various broadband modes, NASUCA disagrees with Verizon's First Amendment rationale for doing so. Verizon at 6-7.

[36] The number of parties opposing each of the various proposals is relevant, if only because the Commission has considered the numerosity of support for the generic "connections-based" concept as a basis for further considering it. Second Further Notice, ¶ 5.

Table 9

Mechanism	Parties supporting	Parties opposing
Proposal 1: Flat fee per connection plus minimum contribution	MCI (original CoSUS proposal), Sprint (fallback; opposes minimum contribution)	NASUCA, AT&T-W (at 2-5), CTIA (at 2-7), MetroCall (at 2-9),[37] Nextel (at 1, 18), NRTA/OPASTCO (at 4-5), NTCA (at 3-4), Time Warner (at 9-12), T-Mobile (at 7-9, 11-16), TRAC, TracFone (at 14-17)[38], USTA (at 7-8), Verizon Wireless (at 17-18)
Proposal 2: Flat fee for connections; revenue-based assessment on transport	Arch (fallback), FWA (fallback), NRTA/OPASTCO, Qwest, SBC/BS (as modified),[39] Texas, Time Warner (as fallback), USTA	NASUCA, Ad Hoc (at 11-14), AT&T (at 54-59), AT&T-W (at 2-5), CTIA (at 11-15), MCI (at 24-31), MetroCall (at 2-9), Nextel (at 1, 18), NTCA (at 4-6), Sprint (at 15-17), T-Mobile (at 6-7, 11-16), TRAC, TracFone (at 17-19), Verizon Wireless (at 18-20)

[37] MetroCall describes the adverse impact on paging carriers resulting from all three proposals. *Id*.

[38] TracFone also (at 24) refutes the original CoSUS proposal, now supported only by MCI. Ad Hoc (at 9-10) attacks the residual pricing that is key to the CoSUS proposal.

[39] SBC/BS assert that "[t]here is very little opposition to the SBC/BellSouth proposal." SBC/BS at 3. It would be interesting to hear their idea of *a lot* of opposition.

Mechanism	**Parties supporting**	**Parties opposing**
Proposal 3: Numbers	Ad Hoc, AT&T, Sprint (opposes minimum payment), VON	NASUCA, AT&T-W (at 2-5), CTIA (at 8-11), MCI (at 32-34), MetroCall (at 2-9), Nextel (at 1, 19-20), NRTA/OPASTCO (at 5), NTCA (at 7-8), SBC/BS (at 3-4, 11-23), Time Warner (at 12-14), T-Mobile (at 7-9, 11-16), TRAC, TracFone (at 19-24), USTA (at 7), Verizon Wireless (at 20-24),

USTA says that while "a number" of commenters supported the revenue-based mechanism, "many others" supported a connection-based mechanism. USTA at 2. As the table here shows, "a number" is actually greater than "many," especially given that the many appear intractably split among the three proposals and variations of the three. WebLink states (at 2) that "[o]f the approximately fifty commenters in this phase of this proceeding, only eight parties advocate radical change to the USF contribution methodology." Although NASUCA's analysis shows somewhat different results, the weight of the record is clearly against such radical change.[40]

[40] WVCAD suggests (at 2) that "[b]ecause it is obvious that there is no consensus, or even a majority opinion, among the various commenting parties in this docket, the Commission should consider a compromise which would bridge the gap among the parties to the extent possible." It appears, however, that those supporting the revenue-based mechanism represent a clear majority of the commenters. The divisions among those supporting the various connection-based mechanisms and variants thereof also suggest that it may be impossible to bridge the gap.

Large ILECs variously support the current mechanism and each of the three proposals (or variants thereof). Smaller ILECs either support the current mechanism or Proposal 2. Wireless carriers either support the current mechanism or express support for one of the connection-based mechanism as the best of a bad lot. Consumer advocates support the revenue-based mechanism, except for Ad Hoc, which supports the numbers-based mechanism. AT&T and MCI, the only IXCs commenting here, support two different connection-based mechanisms.

On the other hand, each of the three connection-based proposals is opposed by consumer advocates, wireless carriers, and ILECs. AT&T and MCI oppose SBC/BS' Proposal 2, and MCI and SBC/BS oppose AT&T's numbers-based Proposal 3. WebLink concisely summarizes the key issue here: "The revealing fact is that there is not even a consensus among the parties that want to replace the revenue-based system. Significantly, the reason for this lack of unanimity appears to be that each proponent puts forth its own proposal to shift its USF burden to other telecommunications carriers…." WebLink at 3.

None of the commenters critical of the revenue-based mechanism have shown that their preferred mechanism will be able better to adjust to growth in the fund. This is true for whichever of the three proposals, or variant of the three, they support.

The Staff Study highlights the lack of support in the record for the need for the structural change to a connection-based mechanism. The opponents of the revenue-based mechanism have failed to put support for the notion of the "death spiral" into the record.

The Commission is being asked, by those with a financial stake in the outcome, to abandon a contribution mechanism that has been found to be reasonable and lawful, based on allegations that have been shown to be speculative or untrue. The Commission is also being asked to adopt some sort of connection-based mechanism, among all of the many variations presented by those to whom their proposal confers a competitive and/or financial advantage, and who oppose all of the other parties' proposal. At least one party argues, as to each of the connection-based mechanisms, that it is unlawful.

Fundamentally, none of the supporters of a connection-based mechanism explain why it is lawful or reasonable to assess universal service contributions based on access to, rather than usage of, the interstate network. That basic error is reason enough to reject the connection-based proposals. Further, each of the proposals will add to the burden on residential and small business customers, and unlawfully allow many carriers to evade their duty under the law to support universal service.

The Commission should retain the revenue-based mechanism, wait to evaluate the impact of the changes enacted in December 2002, and thereafter should make additional improvements to that mechanism. The Commission should also take significant steps to restrain the growth of the universal service fund that is the root cause of the difficulties with the current mechanism.

Respectfully submitted,

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APPENDIX: SUMMARY OF STAFF USF STUDY

	Current and Projected Assessments Under Revenue-Based Methodology			Proposal 1 Connections-Based		Proposal 2 Connections-Based		Proposal 3 Numbers-Based	
	2002	**2005**	**2007**	**2005**	**2007**	**2005**	**2007**	**2005**	**2007**
Projected revenue-based contribution factor	0.080	0.100	0.114	0.0100	0.0100	0.0100	0.114	0.0100	0.0100
USF program requirements ($ millions)	$5,849	$6,861	$7,368	$6,861	$7,368	$6,861	$7,368	$6,861	$7,368
Share of contributions by industry segment									
IXC	59%	45%	41%	22%	22%	32%	29%	14%	13%
LEC	26%	29%	32%	47%	45%	22%	20%	57%	55%
CMRS	15%	25%	27%	30%	31%	42%	43%	30%	31%
Average monthly pass-through charge per household	$ 2.14	$ 2.27	$ 2.38	$ 2.27	$ 2.34	$ 3.60	$ 3.81	$ 2.58	$ 2.68
Single-line business connection per month	$ 0.43	$ 0.59	$ 0.66	$ 1.03	$ 1.05	$ 1.41	$ 1.45	$ 1.00	$ 1.02
Percentage of fund met from Residential assessments	39%	42%	42%	43%	42%	67%	68%	46%	45%
Percentage of fund met from Business assessments	61%	58%	58%	57%	58%	33%	32%	54%	55%